

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

ADAN LOPEZ, FRANCISCO MENDEZ, EZEQUIEL)
ABURTO-HERNANDEZ, ELENA RAFAEL-PERALTA,)
JOSÉ PABLO SANDOVAL-MONTALVO, JOSÉ)
JIMENEZ-OLIVAREZ, ALEJANDRO MARTINEZ-MENDEZ,)
FRANCISCO PALACIOS-HERNANDEZ, HUMBERTO DE)
LA LUZ ARMENTA, and ISAIAS ESPINOSA-VAZQUEZ,)
on behalf of themselves and other similarly situated persons,)

Plaintiff,

v.

HAM FARMS, LLC f/k/a HAM FARMS, INC., HAM)
PRODUCE, LLC f/k/a HAM PRODUCE COMPANY, INC.,)
ISMAEL PACHECO, PACHECO CONTRACTORS, INC.,)
HUGO MARTINEZ, GUTIERREZ HARVESTING, LLC,)
ROBERTO TORRES-LOPEZ, 5 G HARVESTING, LLC,)
RODRIGO GUTIERREZ-TAPIA, SR., CIRILA GARCIA-)
PINEDA, BLADIMIR MORENO, and LOS VILLATOROS)
HARVESTING, LLC,)

Defendants.

) COLLECTIVE ACTION

) § 216(b)

) CLASS ACTION

) Civil Action No.:

) 5:17-CV-00329-D

ORDER GRANTING PARTIES' JOINT MOTION FOR
APPROVAL OF SETTLEMENT AGREEMENT ON FEES AND COSTS,
AND OF CY PRES RECIPIENT

Upon consideration of the Parties' Joint Motion for Approval of the Settlement Agreement on Fees and Costs, the Court, having considered the Motion and accompanying Memorandum in Support of the Motion and Exhibits, finds as follows:

It is hereby **ORDERED** that the Joint Motion for Approval of the Fees Settlement is **GRANTED**.

It is hereby further **ORDERED** that residual settlement funds currently held by Third Party Settlement Claims Administrator Simpluris, Inc., amounting to \$188,053, shall be paid to Plaintiffs' Counsel within 30 days of the date of this Order.

It is hereby further **ORDERED** that all remaining residual settlement funds currently held by Third Party Settlement Claims Administrator Simpluris, Inc., shall be paid to North Carolina Justice Center ("NCJC") as *cypres* recipient of this amount, within 30 days of the date of this Order. Pursuant to the agreement of the Parties, these funds may only be used for education of farmworkers on their legal rights under state and federal wage and hour laws, and may not be used for union organizing or union related activities.

It is hereby further **ORDERED** that the Settlement Agreement and Mutual Release, ECF No. 122-1, is **MODIFIED** such that residual settlement funds described in Section 5.11 of the Settlement Agreement and Mutual Release, ECF No. 122-1 at 32-33, amounting to \$188,053, shall be paid to Plaintiff Class Counsel.

It is hereby further **ORDERED** that a total amount of \$42,000 shall be paid by Defendants Gutierrez Harvesting, LLC, 5G Harvesting, LLC, and Rodrigo Gutierrez-Tapia Sr. (the "Gutierrez Defendants") to Plaintiff Class Counsel within 30 days of the date of this Order.

It is hereby further **ORDERED** that upon timely payment by the Gutierrez Defendants to Plaintiff Class Counsel of the amount specified in this Order, all liability of the Gutierrez Defendants under the class action settlement in this case shall terminate.

It is hereby further **ORDERED** that a total amount of \$220,000 shall be paid by Defendants Ham Farms, LLC and Ham Produce, LLC (the "Ham Farms Defendants") to Plaintiff Class Counsel. Of this total amount, \$110,000 shall be paid by the Ham Farms Defendants to Plaintiff Class Counsel within one calendar year of the date of this Order, without

interest. The remaining \$110,000 shall be paid by the Ham Farms Defendants to Plaintiff Class Counsel within two calendar years of the date of this Order, without interest.


It is hereby further **ORDERED** that upon timely payment by the Ham Farms Defendants to Plaintiff Class Counsel of the amounts specified in this Order, all liability of the Ham Farms Defendants under the class action settlement in this case shall terminate.

It is hereby further **ORDERED** that if the Ham Farms Defendants do not make the initial payment of \$110,000 specified in this Order within the time specified in this Order, Plaintiff Class Counsel may execute the Ham Farms Defendants Deed of Trust filed by the Parties as an exhibit to their Joint Motion for Approval of the Fees Settlement, and the proceeds from the foreclosure of the properties subject to the Deed of Trust, in the amount of \$220,000, shall be paid to Plaintiff Class Counsel.

It is hereby further **ORDERED** that in the event the initial payment of \$110,000 be made, but the second payment of \$110,000 not be made within the time specified in this Order, Plaintiff Class Counsel may execute the Ham Farms Defendants Deed of Trust filed by the Parties as an exhibit to their Joint Motion for Approval of the Fees Settlement, and the proceeds from the foreclosure of the properties subject to the Deed of Trust, in the amount of \$110,000, shall be paid to Plaintiff Class Counsel.

It is hereby further **ORDERED** that in the event the Ham Farms Defendants Deed of Trust is not sufficient to provide payment to Plaintiff Class Counsel of the amounts owed to them, Plaintiff Class Counsel may enforce this Settlement Agreement through the Court to obtain any remaining unpaid amounts owed to Plaintiff Class Counsel. Plaintiff Class Counsel may enforce this Settlement Agreement against Ham Farms, LLC, Ham Produce, LLC, or Ham Equipment, LLC, or any successor entities to these companies, to obtain payment for amounts owed by Defendants Ham Farms, LLC and Ham Produce LLC.

SO ORDERED. This the 16 day of February, 2022.



JAMES C. DEVER III
United States District Judge